

**Adopted Interim Rule 9/13/00 1**

Adopt Dec 100-200 Effective 8-30-94  
(Document #5824), and expired  
8-30-00, to read as follows:

TITLE Dec NUCLEAR DECOMMISSIONING FINANCING COMMITTEE

CHAPTER Dec 100 ORGANIZATIONAL RULES

PART Dec 101 PURPOSE AND SCOPE OF RULES

Dec 101.01 Intent of Rules. These rules shall govern the proceedings before the Seabrook nuclear decommissioning financing committee. They are intended to provide a procedure for determination of the amount of the decommissioning financing fund for such nuclear electric generating facility and the monthly schedule of payments of monies into the fund by the owner or owners of such nuclear electric generating facility.

PART Dec 102 DEFINITIONS

Dec 102.01 "Adjudicative proceeding" means the procedure to be followed in contested cases, as set forth in RSA 541-A:16 through RSA 541-A:22 and the rules of the committee. It shall include any matter that is noticed for hearing by the committee in accordance with the applicable statutes, giving an opportunity to all interested parties to present such written or oral testimony as the presiding officer shall deem relevant and material to the issues, to cross-examine witnesses, and the right to submit argument at or after the close of the evidence.

Dec 102.02 "Commission" means the New Hampshire public utilities commission.

Dec 102.03 "Committee" means the nuclear decommissioning financing committee established pursuant to RSA 162-F:14.

Dec 102.04 "Decommissioning of a nuclear electric generating facility" means the permanent removal from service of any radioactive portion of a nuclear electric generating facility and includes, but is not limited to:

(a) Removal, relocation, shipment, containment, demolition, dismantling or storage or a combination thereof of any radioactive equipment, materials, nuclear wastes or contaminated structures and future and present storage of radioactive debris; and

(b) Restoration and rehabilitation of the physical and aesthetic appearance of the decommissioning site.

Dec 102.05 "Facility" means any nuclear electric generating facility subject to decommissioning pursuant to RSA 162-F:14-26.

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Dec 102.06 "Fund" means a nuclear decommissioning financing fund established pursuant to RSA 162-F:19.

Dec 102.07 "Intervenor" means any person permitted by the committee to intervene in any adjudicative proceeding who thereby becomes a party to such proceeding, as provided in RSA 541-A:17.

Dec 102.08 "Issue date" means the date on which the committee gives actual notice to all parties of an order or other material issued by the committee, or transmits the same for mailing or delivery.

Dec 102.09 "Lead company" means the utility designated by the owner or owners of a nuclear electric generating facility to represent them before the committee in any adjudicative proceeding.

Dec 102.10 "Motion" means a request to the committee to take any action or to enter any order after the commencement of an adjudicative proceeding, or non-adjudicative process pursuant to RSA 162-F:14-26 or the rules of the committee.

Dec 102.11 "Non-adjudicative processes" means all committee procedures and actions preceding and other than the commencement of an adjudicative proceeding.

Dec 102.12 "Order" means the whole or part of the committee's final disposition of a matter, other than a rule, the interim disposition of procedural matters and prehearing conferences, and the final disposition of any other matters before the committee.

Dec 102.13 "Party" means each person or agency named as a party, or properly seeking and entitled as a right to be admitted as a party, including intervenors, as provided in RSA 541-A:1, X.

Dec 102.14 "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character which appears before the committee for any purpose.

Dec 102.15 "Petition" means any written request filed with the committee for the purpose of seeking the approval, determination, consent, certification or authorization of the committee in connection with any matter or adjudicative proceeding and non-adjudicative processes pending before the committee.

Dec 102.16 "Petitioner" means any person on whose behalf a petition is filed with the committee.

Dec 102.17 "Presiding officer" means that individual appointed to be the presiding officer at the hearings in adjudicative proceedings as set forth in Dec 204.01 or a hearing officer appointed by the committee to preside over procedural matters and prehearing conferences.

PART Dec 103 DESCRIPTION

Dec 103.01 Committee Description.

(a) The nuclear decommissioning financing committee is a committee established for the Seabrook nuclear electric generating facility, and delegated the responsibility of determining the amount of money needed to decommission that facility.

(b) The committee consists of 8 members as set forth in Dec 103.02.

(c) The committee's duties are to establish a nuclear decommissioning financing fund for the Seabrook nuclear electric generating facility and also to establish a regular monthly schedule for payments of money into the fund by the owner or owners of that facility.

(d) The fund is to be available to decommission the Seabrook nuclear electric generating facility when any radioactive portion of that facility is permanently removed from service.

(e) Proceedings before the committee are governed by RSA 541-A and these rules.

Dec 103.02 Committee Members. The committee consists of 8 members as follows:

(a) A resident of the town of Seabrook where the nuclear facility is located;

(b) The chairman of the public utilities commission;

(c) The chairman of the legislative fiscal committee;

(d) The vice-chairman of the legislative fiscal committee;

(e) The state treasurer or his designee;

(f) The commissioner of the department of health and welfare or his designee;

(g) The commissioner of the department of safety or his designee; and

(h) A representative of the lead company as designated by the owner or owners of the Seabrook nuclear facility.

Dec 103.03 Method of Committee Operations. The committee performs its statutory responsibilities in determining and establishing the Seabrook nuclear decommissioning financing fund and a schedule of payments of monies into such fund, by initiating proceedings for such nuclear electric energy facility and by holding all necessary meetings and hearings in order to accomplish this. The committee is assisted in carrying out these responsibilities by hiring clerical and technical assistance on a temporary basis, such as its administrative assistant and its special legal counsel, as provided in RSA 162-F:17, III.

PART Dec 104 REQUESTS BY PUBLIC FOR INFORMATION

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Dec 104.01 Information Request by Public. Any member of the public may call or request in writing photocopies of minutes and records of the committee in any proceeding or in any other matter

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before the committee, and upon payment of the cost of copying such documents, the documents shall be furnished to the person requesting them. Copies shall be free for requests of 10 pages or under. A charge of \$.10 per page shall be assessed for every copy over the first 10 pages.

Dec 104.02 Public Inspection of Minutes and Records. As provided in RSA 91-A:4, the Right-To-Know law, the records of the committee, including its minutes, shall be available for inspection and copying by any member of the public during regular business hours at the premises of the public utilities commission, located at 8 Old Suncook Road, Building #1, Concord, New Hampshire, from 8:00 a.m. to 4:30 p.m., Monday through Friday, on state work days.

Dec 104.03 Public Access to Committee Rules. The committee, pursuant to the Administrative Procedures Act, RSA 541-A, files its rules with the director of legislative services. Citizens may receive information about the rules through contact with the committee at the public utilities commission, at 8 Old Suncook Road, Building #1, Concord, New Hampshire. Members of the public may call or write the committee to obtain photocopies of the rules or may appear in person to inspect the rules. Copies of the rules shall be free and no charge shall be made for them.

### CHAPTER Dec 200 PRACTICE AND PROCEDURAL RULES

#### PART Dec 201.01 PROCEEDINGS BEFORE THE COMMITTEE

Dec 201.01 Governing Procedure. These rules shall govern practice before the committee in its formal and informal proceedings and in accordance with the applicable laws of the State of New Hampshire. With respect to matters not covered by these rules, timely application for procedural instructions may be directed to the secretary of the committee.

Dec 201.02 Nature of Proceedings. The proceedings before the committee concerning the establishment of a nuclear decommissioning financing fund are conducted in the form of an adversary proceeding under RSA 541-A:14-22 as provided in RSA 162-F:15-a. All other proceedings before the committee shall be governed by any applicable statutes and by these rules to the extent applicable.

Dec 201.03 Practice Before the Committee. Any person may appear before the committee in his own behalf, by attorney authorized to practice in this state, or by agent thereunto authorized in writing. An attorney from another jurisdiction, in good standing there, shall be permitted to participate in adjudicative proceedings before the committee, pro hac vice, if associated with an attorney authorized to practice in this state. Nothing in these rules shall be interpreted in such a way as to permit the unauthorized practice of law; nor shall this rule in any way be construed to restrict or limit the right of any person to conduct his own representation with or before the committee.

Dec 201.04 Waiver of Rules.

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(a) Upon its own motion, or upon petition, the committee, or designated presiding officer, may waive the provisions of any rule, except where precluded by statute. Any petition for waiver shall be specific and in writing.

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(b) A waiver from any provision of these rules shall be made by the designated presiding officer, provided that the designated presiding officer finds that:

- (1) Such waiver will enable the committee to either expedite the proceeding or complete it in a more orderly manner in complying with its statutory mandate and purpose;
- (2) Existing peculiarities or unusual circumstances warrant the departure from a prescribed procedure or from a prescribed rule; and
- (3) Specifically defined alternative procedure is proposed which shall result in a substantially equivalent result or a more just result consistent with the principles embodied in said rule.

### PART Dec 202 FILINGS WITH COMMITTEE

Dec 202.01 Initiation of Proceeding. RSA 162-F:15, I, provides that a nuclear decommissioning financing committee shall be established for each nuclear electric generating facility which is required to be approved under RSA 162-F:14-26 and a formal proceeding shall be initiated for each such facility.

#### Dec 202.02 Filing of Testimony, Exhibits and Documents.

(a) After the committee initiates a proceeding to establish a separate nuclear decommissioning financing fund as provided in RSA 162-F:19, or to update or revise an existing fund previously established and as provided in RSA 162-F:22, the lead company shall file testimony, exhibits and other documentation relating to the proposed nuclear decommissioning financing fund for the nuclear electric generating facility with the secretary of the committee. The secretary shall acknowledge receipt of the filing and shall forward a copy to each member of the committee and commission.

(b) Each filing pursuant to (a) above shall conform to the requirements of Dec 202.05 and shall contain detailed information concerning the methods proposed to be used to decommission the nuclear facility, the prospective costs of such decommissioning, and a schedule of a payments and any other information the person filing determines is relevant and material to the establishment of such fund.

#### Dec 202.03 Notice of Hearings.

(a) The committee shall hold a meeting upon receipt of such information and schedule hearings with the proper notice and in the proper locations as required by RSA 162-F:21 and RSA 162-F:22. In such a contested case, all parties shall be afforded an opportunity for an adjudicative proceeding after notice.

(b) The notice required by (a) above shall include:

- (1) A statement of the time, place and nature of the hearing;

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- (2) A statement of the legal authority under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and rules involved; and
- (4) A short and plain statement of the issues involved.

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(c) Upon request, the committee shall, when possible, furnish a more detailed statement of the issues within 30 days of the date of the request.

Dec 202.04 Opportunity to Respond. Opportunity shall be afforded to all parties to respond and present evidence, to cross-examine witnesses, and to submit argument on all issues involved.

Dec 202.05 Filing Information by a Lead Company. Each lead company shall file documentation with the committee providing the following:

(a) Utility information, as follows:

- (1) Name of lead company;
- (2) Mailing address of lead company;
- (3) Telephone number of lead company;
- (4) Utility franchise area, if applicable;
- (5) Names and addresses of principal officers of the lead company;
- (6) Whether the lead company is the owner, lessee or other;
- (7) Names and addresses of owners of the facility; and
- (8) Copies of permits and licenses by other regulatory agencies required to decommission, if any.

(b) Location information, as follows:

- (1) Location of site of nuclear electric generating facility; and
- (2) Travel directions to site.

(c) Generating unit information, as follow:

- (1) Name of unit;
- (2) Size of unit by megawatt electric capacity;
- (3) Type of unit information as follows:
  - a. Description of the type of unit;

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- b. Method of cooling condenser discharge;
  - c. Whether the unit serves base, intermediate or peaking loads;
- (4) Description of the methods of decommissioning nuclear facility and include:

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- a. Detailed description, cost and timetable of known decommissioning methods currently available;
  - b. Method proposed by lead company; and
  - c. Cost of each method; and
- (5) Description of the payment schedule and including:
- a. Proposed schedule of payments; and
  - b. All methods and inputs utilized in the development of the proposed schedule.

Dec 202.06 Format of Filing. Testimony, exhibits and other documents shall be prepared on standard 8-1/2" x 11" sheets, and plans shall be folded to that size. The documents shall also be filed on diskettes, and such diskette filing at a minimum shall be ASCII format, any version of Word Perfect preferred, with the diskette size of 3 1/2 or 5 1/4. All information referred to in Dec 202.05 shall be furnished.

Dec 202.07 Opening Statement. The lead company shall file an original and 3 copies of a written opening statement which summarizes the company's filing no later than 30 days prior to the date of the first hearing. The opening statement shall also contain a separate summary of the prepared testimony referred to in Dec 202.02 (a).

Dec 202.08 Information Available to the Public. In addition to meeting the requirements of RSA 162-F:21, the committee will require the lead company to file copies of the testimony, exhibits and any other documents in the town or city clerk's office where the nuclear facility is located and in the state library in Concord, N.H., in order to make such documents readily available for inspection by any interested person.

### PART Dec 203 FORMAL REQUIREMENTS

Dec 203.01 Place of Hearings. Except as provided in RSA 162-F:21, IV and RSA 162-F:22, I, requiring public hearings to be held in the city or town where the nuclear electric generating facility is located, all hearings before the committee shall be held at the hearing rooms at the offices of the public utilities commission, located at 8 Old Suncook Road, Building #1, Concord, New Hampshire, or at another location in Concord, New Hampshire designated by the committee when such hearing rooms are unavailable.

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Dec 203.02 Calendar of Hearings. A docket of all proceedings pending before the committee and a hearing calendar shall be maintained at the offices of the public utilities commission.

Dec 203.03 Computation of Time. Computation of any period of time referred to in these rules shall begin with the first day following the act which initiates such period of time. The last day of the period so computed shall be included unless it is a day on which the office of the committee is closed, in

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which event the period shall run until the end of the next following business day. Only when such period of time, with the intervening Saturdays, Sundays and legal holidays counted, is 5 days or less, shall Saturdays, Sundays, and legal holidays be excluded from the computation.

Dec 203.04 Extensions of Time. In the discretion of the presiding officer, for good cause shown, any time prescribed or allowed by these rules may be extended. Good cause shall include illness, accident, the death of a family member, or similar problem beyond the control of the person seeking the extension of time. All requests for extensions shall be in writing and shall be made before the expiration of the period originally prescribed or as previously extended. The secretary or administrative officer of the committee shall notify all parties of the committee's action upon such request.

Dec 203.05 Date of Filing.

(a) All orders, decisions, findings of fact, correspondence, motions, petitions, applications and any other documents filed with the committee shall be deemed to have been issued, made or received:

(1) On the issue date for orders or material issued by the committee;

(2) On the date of receipt by the committee for petitions, applications or material filed by petitioners, applicants, or other persons.

(b) Unless otherwise ordered by the committee to expedite communication of data, facsimile filings shall not be accepted. Authorized facsimile filings shall be followed by hard copies in accordance with these procedural rules.

Dec 203.06 Identification of Written Communications. Written communications to the committee shall relate to one proceeding, contain the name and address of the communicator and the appropriate docket number, order number or other pertinent subject matter identification.

Dec 203.07 Advance Filing of Exhibits and Testimony. All intervenors shall file an original and 3 copies of their direct testimony and exhibits with the committee and served on all other parties at such times and in accordance with a procedural order issued by the committee.

Dec 203.08 Exhibits.



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(a) Where evidence to be presented consists of tabulations and figures so numerous as to make oral presentations difficult to follow, it shall be presented in exhibit form. Exhibits may be summarized, supplemented and explained. Multipage documents shall be paginated sequentially.

(b) Space shall be provided in the upper right-hand corner of each such exhibit for the insertion of the docket number, the name of the witness through whom it is presented and the number of the exhibit.

(c) The party offering an exhibit shall file the original and 3 copies thereof with the committee and shall serve all other parties a copy thereof.

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Dec 203.09 Late Filing of Exhibits. By agreement of the parties at the hearing, exhibits may be filed after the close of the formal proceedings. Such late filings shall not preclude the right of any party of record from objecting to the material contained in the late filed exhibit. The committee shall take such objections into account in deliberating and issuing an order in the proceeding.

Dec 203.10 Transcripts. As provided in RSA 162-F:21, III and IV, and RSA 162-F:22, I, the committee shall publish a transcript of all proceedings during which the information was presented or offered into testimony. Such transcripts shall be available for public review in the clerk's office of the city or town where the nuclear electric generating facility is located and in the office of the public utilities commission, as required by statute. All testimony shall be transcribed and made a permanent record.

Dec 203.11 Signatures. Every application, notice, motion, petition, brief or memorandum shall be signed by the person filing the document or by one or more attorneys in their individual names on behalf of such person.

Dec 203.12 Amendments. The committee shall permit the amendment of any document filed with the committee. No amendment shall be accepted which has the effect of broadening the scope of the proceeding without an opportunity for proper public notice.

Dec 203.13 Service.

(a) Except for motions for rehearing filed pursuant to RSA 541:3, service of all documents relating to any proceeding, including but not limited to, applications, petitions, motions, prepared testimony, exhibits, briefs, and written communications shall be made by personal delivery or first class mail. This shall not apply to internal committee memoranda.

(b) Service of motions for rehearing filed pursuant to RSA 541:3 shall be received by the parties on the same day as they are filed with the committee.

(c) All such documents shall be served by the person filing the same on every other party. If a person becomes a party after the document has been filed, a copy of all documents previously filed shall be furnished to such person, if he so requests. Proof of service shall accompany all documents filed.

PART Dec 204 HEARINGS AND PROCEDURE

Dec 204.01 Presiding Officer. The chairman of the committee shall be the presiding officer at the hearings. In his absence, the committee shall appoint one of its members to be the presiding officer at the hearings. The committee shall also appoint a hearing officer to hold procedural hearings or prehearing conferences whenever the circumstances of the proceeding, in its discretion, warrant it.

Dec 204.02 Notice of Hearing.

(a) The committee shall give written notice by first class mail of a hearing at least 14 days in advance thereof to:

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- (1) The parties on the service list of a proceeding as established by a procedural hearing;
- (2) To persons required by statute to be notified; and
- (3) To such other additional persons who request the committee to include them on the service list.

(b) The committee shall direct the lead company to give notice to the general public by a newspaper having general circulation in the area affected by the proceeding, the cost of said publication to be borne by the lead company and the other facility owners.

(c) The notice shall contain the information set forth in Dec 202.03. The order of notice, if any, shall designate the number of times the notice shall appear in a newspaper, the date prior to which notice shall appear, the date for affidavit and return of publication.

(d) The lead company shall show compliance with such order by affidavit.

Dec 204.03 Intervention as a Party.

(a) The presiding officer shall grant one or more motions to intervene as a party if:

- (1) The motion is submitted in writing to the presiding officer, with copies mailed to all parties named in the committee's or presiding officer's notice of the hearing, at least 3 days before the hearing;
- (2) The motion states facts demonstrating that the movant's rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding or that the movant qualifies as an intervenor under any provision of law; and
- (3) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.

(b) The presiding officer may grant one or more motions to intervene as a party at any time, upon determining that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the hearings.

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(c) If a person qualifies to intervene as a party as provided in RSA 541-A:17, the presiding officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Such conditions may include but are not limited to:

- (1) Limitation of the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the motion;
- (2) Limitation of the intervenor's use of cross-examination and other procedures so as to promote the orderly and prompt conduct of the proceedings; and
- (3) Requiring 2 or more intervenors to combine their presentations of evidence and argument, cross-examination and other participation in the proceedings.

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(d) Limitations imposed in accordance with paragraph (c) shall not be so extensive as to prevent the intervenor from protecting the interest which formed the basis of the intervention.

(e) The presiding officer shall render an order granting or denying each motion for intervention, specifying any conditions and briefly stating the reasons for the order. The presiding officer may modify the order at any time, stating the reasons for the modification.

### Dec 204.04 Motions.

(a) A motion may be filed at any time by a party to a proceeding or by a person who has filed a motion to intervene which has not been denied. All motions shall be filed in writing.

(b) A motion shall clearly and concisely state the facts and law which support the motion and the specific relief or ruling requested. The motion shall also contain certification that the party has made a good faith attempt to obtain the concurrence of the other parties in the relief sought.

(c) Objections to a motion, except for motions for rehearing, shall be in writing and filed within 10 days of the date on which the motion is filed, unless otherwise ordered. Objections to a motion for rehearing pursuant to RSA 541:3 shall be filed within 3 days of the date on which the motion for rehearing is filed.

### Dec 204.05 Prehearing Conference.

(a) As provided in RSA 541-A:16, V (b), in order to facilitate proceedings and encourage informal disposition, the presiding officer may, upon motion of any party, or upon his own motion, schedule one or more informal prehearing conferences prior to the beginning of the formal proceedings. The presiding officer shall provide notice to all parties prior to holding any prehearing conference.

(b) Prehearing conferences may include, but shall not be limited to, consideration of one or more of the following:

- (1) Offers of settlement;

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- (2) Simplification of the issues;
- (3) Stipulations or admissions as to issues of fact or proof, by consent of the parties;
- (4) Limitations on the number of witnesses;
- (5) Changes to standard procedures desired during the hearing, by consent of the parties;
- (6) Consolidation of examination of witnesses by the parties; and
- (7) Any other matters which will aid in the disposition of the proceeding.

(c) The presiding officer shall issue and serve upon all parties a prehearing order incorporating the matters determined at the prehearing conference.

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Dec 204.06 Order of Procedure at Hearing. In hearings in a proceeding, the party that shall open and close any part of the presentation shall be the lead company.

Dec 204.07 Settlement and Stipulation of Facts. As provided in RSA 541-A:16, V (a), unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default. The parties to any proceeding before the committee may, by stipulation in writing filed with the committee or entered in the record at the hearing, agree upon the facts or any portion thereof involved in the hearing. The stipulation shall be regarded and used as evidence in the decision of the matter.

Dec 204.08 Evidence; Official Notice in Contested Cases.

(a) All testimony of parties and witnesses shall be made under oath or affirmation administered by the presiding officer.

(b) As provided in RSA 541-A:18, II, the rules of evidence shall not apply in adjudicative proceedings. Any oral or documentary evidence may be received, but the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence. The committee shall give effect to the rules of privilege recognized by law. Objections to evidence offered may be made and shall be noted in the record. Subject to the foregoing requirements, any part of the evidence may be received in written form if the interests of the parties shall not thereby be prejudiced substantially.

(c) Any party may conduct cross-examination required for a full and true disclosure of the facts.

(d) Any person who files an intervention and is not represented by an attorney, may request the counsel for the public, as referred to in RSA 162-F:21, III, to cross-examine any witness upon any matter pertaining to the proceedings. Any person desiring to submit questions or to confer with counsel for the public shall be afforded the opportunity to do so at the beginning of each hearing day of the proceeding and during any recess at the hearings.

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(e) As provided in RSA 541-A:18, V, official notice may be taken of any one or more of the following:

- (1) Any fact which could be judicially noticed in the courts of this state;
- (2) The record of other proceedings before the committee;
- (3) Generally recognized technical or scientific facts within the committee's specialized knowledge;
- (4) Codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association.

(f) Parties shall be notified either before or during the hearing or by reference in preliminary notices or otherwise of the material noticed. Parties shall be afforded an opportunity to contest the material so noticed. The committee's experience, technical competence and specialized knowledge shall be used in the evaluation of the evidence.

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Dec 204.09 Limiting Number of Witnesses. To avoid unnecessary cumulative evidence, the committee or the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing.

Dec 204.10 Postponements. Requests for postponements shall be submitted to the committee, in writing, at least 7 days prior to the date of hearing. Postponements shall not be granted if requested within 7 days prior to the date set for hearing except for good cause shown. Good cause shall include illness, accident, the death of a family member or similar problem beyond the control of the person seeking the extension of time. No hearing shall be postponed more than twice except for unusual causes or compelling circumstances.

Dec 204.11 Continued Sessions of Hearings. Prior to a continued session of any public hearing, notice of such continued session shall be given only to those parties who appeared at the original session. Public notice of the continued session shall not be required.

Dec 204.12 Requests and Briefs. Requests for findings of fact and rulings of law and briefs as to facts and law shall be received in any proceeding. The day for filing requests and briefs shall be designated by the committee during or upon the conclusion of the hearing. An original and 3 copies of such requests and brief shall be filed with the committee and served upon all parties to the proceeding.

Dec 204.13 Ex-parte Communications. The term ex parte communication as used in RSA 541-A:21 does not include a communication with respect to a proceeding if such communication:

- (a) Is a status report or request for a status report;

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- (b) Relates to a matter of procedure; or
- (c) Is made in the course of another proceeding of the committee to which it primarily relates, and is on the public record.

Dec 204.14 Quorum. 5 members of the committee shall constitute a quorum for the purpose of holding and conducting a hearing. If a quorum of 5 members of the committee is lacking, then 4 members of the committee shall constitute a quorum for the purpose of holding and conducting the hearing; provided that a decision of the committee shall be made by a quorum of the committee after a review of the transcript and exhibits presented at the hearing by the committee members who did not attend the hearing.

### PART Dec 205 RULES FOR PETITIONING THE COMMITTEE

#### Dec 205.01 Petition for Rulemaking.

(a) Any interested person may petition the committee, using the form specified in Dec 205.03, requesting the adoption, amendment or repeal of any rule.

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(b) If the proposed rule adoption, amendment or repeal is consistent with the committee's statutory purpose and jurisdiction and does not violate any statute which governs the committee's activities, then within 30 days of the receipt of the petition by the committee, the committee shall either:

- (1) Initiate rulemaking proceedings in compliance with the petition and in accordance with RSA 541-A:3; or
- (2) Deny the petition in writing stating the reasons for the denial.

#### Dec 205.02 Petition for Declaratory Ruling.

(a) Any interested person may petition the committee, using the form specified in Dec 205.03, requesting a declaratory ruling on the applicability of any statute, rule or order of the committee.

(b) Within 45 days of the receipt of said petition by the committee, it shall issue a declaratory ruling responsive to the petition. The ruling shall be an order of the committee and shall be kept by the committee and be available for public inspection.

#### Dec 205.03 Petition Form.

(a) The committee shall consider any petition which meets the following minimum requirements:

- (1) All petitions shall be in writing and addressed to the committee at the address specified in Dec 104.02.
- (2) Petitions for proposed rulemaking shall generally state the nature of the proposed rule(s) and state the petitioner's reasons for proposing the rule.

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- (3) Petitions for the amendment or repeal of a rule shall identify specifically which rule(s) proposed are to be amended or repealed and state the petitioner's reasons for proposing the rule change(s).
- (4) Petitions for a declaratory ruling shall:
  - a. Identify specifically which statute, rule or order on which a declaratory ruling is sought.
  - b. Provide all facts material to the petition.
- (b) If the committee determines that a petition does not meet the minimum requirements above it shall:
  - (1) Immediately notify the petitioner, in writing, of the specific deficiencies.
  - (2) Upon receipt of a corrected petition, take any actions required by Dec 205.01 and 205.02 above, to insure that the committee shall be able to comply with the applicable deadlines, which shall be deemed to commence upon its receipt of the corrected petition.